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and REBECCA HILL

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

DUCKHORN WINE COMPANY,  
  
Plaintiff,  
  
v.  
  
HILL WINE COMPANY, LLC; et al.,  
  
Defendants.

Case No. C 13-00995 LB

**STIPULATED ORDER RE: DISCOVERY  
OF ELECTRONICALLY STORED  
INFORMATION FOR STANDARD  
LITIGATION**

**1. PURPOSE**

This Order will govern discovery of electronically stored information (“ESI”) in this case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the Discovery of Electronically Stored Information, and any other applicable orders and rules.

**2. COOPERATION**

The parties are aware of the importance the Court places on cooperation and commit to

1 cooperate in good faith throughout the matter consistent with this Court's Guidelines for the  
2 Discovery of ESI.

### 3 **3. LIAISON**

4 The parties have identified liaisons to each other who are and will be knowledgeable about  
5 and responsible for discussing their respective ESI. Each e-discovery liaison will be, or have  
6 access to those who are, knowledgeable about the technical aspects of e-discovery, including the  
7 location, nature, accessibility, format, collection, search methodologies, and production of ESI in  
8 this matter. The parties will rely on the liaisons, as needed, to confer about ESI and to help  
9 resolve disputes without court intervention.

### 10 **4. PRESERVATION**

11 The parties have discussed their preservation obligations and needs and agree that  
12 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the  
13 costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

- 14 a) The parties will exchange a list of the types of ESI they believe should be preserved  
15 and the custodians, or general job titles or descriptions of custodians, for whom they  
16 believe ESI should be preserved, e.g., "HR head," "scientist," and "marketing  
17 manager." The parties shall add or remove custodians as reasonably necessary;
- 18 b) The parties will agree on the number of custodians per party for whom ESI will be  
19 preserved;
- 20 c) The parties will exchange a list of data sources that may contain potentially relevant  
21 information but that are not reasonably accessible because of undue burden or cost  
22 pursuant to Fed. R. Civ. P. 26(b)(2)(B) to the extent such data sources exist. These  
23 data sources include back-up media systems or systems no longer in use that cannot  
24 be accessed. ESI from these sources will be preserved but not searched, reviewed,  
25 or produced;
- 26 d) In addition to the agreements above, the parties may agree that data from certain  
27 sources (a) could contain relevant information but (b) under the proportionality  
28 factors, should not be preserved..

### 24 **5. SEARCH**

25 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if  
26 appropriate, they will meet and confer about methods to search ESI in order to identify ESI that is  
27 subject to production in discovery and filter out ESI that is not subject to discovery.  
28

## 6. PRODUCTION FORMATS

The parties agree to produce documents in PDF and/or TIFF file format, organized at the document level and produced with a delimited data file that contains the following meta-data fields, to the extent they exist: Custodian, File Path, Email Subject, Title, From, To, CC, BCC, Date Sent, Time Sent, Date Received, Time Received, Filename, Author, Date Created, Date Modified, MD5 Hash, File Size, File Extension, Production Number Begin, Production Number End, Attachment Range, Attachment Begin, and Attachment End (or the equivalent thereof).

The parties expressly reserve the right to request the production of the native file. If particular documents warrant a different format, the parties will cooperate to arrange for the mutually acceptable production of such documents. The parties agree not to degrade the searchability of documents as part of the document production process. No party has an obligation to make its production text-searchable; however, if a party's documents already exist in text-searchable format independent of this litigation, or are converted to text-searchable format for use in this litigation, including for use by the producing party's counsel, then such documents shall be produced in the same text-searchable format at no cost to the receiving party.

## 7. DOCUMENTS PROTECTED FROM DISCOVERY

- a) Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privileged or work-product-protected documents in this case as part of a mass production is not itself a waiver in this case or in any other federal or state proceeding.
- b) Communications involving trial counsel that post-date the filing of the complaint need not be placed on a privilege log. Communications may be identified on a privilege log by category, rather than individually, if appropriate.

## 8. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for good cause shown.

**IT IS SO STIPULATED**, through Counsel of Record.

Dated: May 30, 2013

/s/ Brian A.E. Smith

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Brian A.E. Smith, Esq.

Robin K. Curtis, Esq.

Jeffrey D. Chen, Esq.

Bunsow, De Mory, Smith & Allison LLC

Attorneys for Plaintiff DUCKHORN WINE COMPANY

Dated: May 30, 2013

/s/ Keith R. Gillette

Keith R. Gillette

Chad D. Greeson

Attorneys for Defendants HILL WINE COMPANY, LLC,

JEFF HILL, and REBECCA HILL

**ATTESTATION PURSUANT TO GENERAL ORDER 45**

Pursuant to General Order No. 45, I hereby attest that I have obtained concurrence of the above noted signatories as indicated by a "conformed" signature (/s/) within this e-filed document.

**IT IS ORDERED** that the forgoing Agreement is approved.

Dated: June 6, 2013



UNITED STATES DISTRICT/MAGISTRATE JUDGE